

## **REMARKS**

### **Status of the Claims**

Claims 1, 2, 19, 26 and 53-56 are in the application.

Claims 1, 2, 19, 26 and 53-56 have been rejected.

By way of this amendment, claims 1 and 2 have been amended and claims 55 and 56 have been canceled.

Upon entry of this amendment, claims 1, 2, 19, 26, 53 and 54 will be pending.

### **Summary of Amendment**

Claims 1 and 2 have been amended to specifically refer to the elected invention and delete reference to non-elected inventions. As amended, the language in both claims is clear that the peptide consists of SEQ ID NO:1.

Claim 55 has been deleted as being redundant.

Claim 56 has been deleted as referring to a non-elected invention.

### **Claim Rejections Under 35 U.S.C. § 112, first paragraph**

#### **Written Description Rejection**

Claims 1, 2, 19, 26 and 53-55 have been rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Official Action points out at page 3 that

the claimed invention is directed to pharmaceutical composition comprising fragments of Ang-1 protein or a vector comprising a nucleic acid molecule that encodes a fragment of Ang-1 protein. The claim reads on a genus of fragments for the structure set forth in SEQ ID NO:1. Note that claims such as 19 for example has no structure. Therefore the claims encompass a large variable genus

of protein fragments and the specification lacks adequate written description to demonstrate to a skilled artisan that applicant was in possession of the claimed invention. therefore, the skilled artisan cannot envision the detailed chemical structure of protein fragments.

Applicants respectfully disagree and request reconsideration.

First, with respect to claims 1 and 2, the claims *do not* “reads on a genus of fragments for the structure set forth in SEQ ID NO:1.” SEQ ID NO:1 is a single species, i.e. SEQ ID NO:1 is an extracellular matrix-binding fragment of Ang-1 protein. Claims 1 and 2 do not recite a genus of fragments of SEQ ID NO:1 but rather the fragment that consists of SEQ ID NO:1. The specification clearly reflects that Applicants were in possession of the claimed subject matter at the time the application was filed. The claimed subject matter is clearly set forth in detail in the specification..

Regarding claims 19, 26, 53 and 54, these claims do not recite specific structure with respect to specific sequences but they refer to Ang-1 and Ang-2 proteins which one skilled in the art would readily recognize and understand. Further, the claims set forth specific functional aspects to the proteins which could be routinely identified. Accordingly, the specification reflects that Applicants were in possession of the claimed subject matter at the time the application was filed.

For the foregoing reasons, Applicants respectfully request that the rejection of claims 1, 2, 19, 26, 53 and 54 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement be withdrawn.

#### **Enablement Rejection**

Claims 1, 2, 19, 26 and 53-55 have been rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for the protein set forth in SEQ ID NO:1, allegedly does not reasonably provide enablement for any fragment thereof or any homologous peptide. Applicants respectfully disagree and request reconsideration.

First, with respect to claims 1 and 2, the claims are directed to peptides *consisting of* SEQ ID NO:1. Claims 1 and 2 refer specifically to peptides consisting of SEQ ID NO:1 and are therefore enabled as set forth on page 5 of the Official Action.

Regarding claims 19, 26, 53 and 54, these claims do refer to mutants of Ang-1 and Ang-2 proteins. These mutants are readily identifiable to one skilled in the art. The functional aspects to the proteins as set forth in the claims could be routinely identified by those skilled in the art. Accordingly, claims 19, 26, 53 and 54 are enabled.

For the foregoing reasons, Applicants respectfully request that the rejection of claims 1, 2, 19, 26, 53 and 54 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement be withdrawn.

#### **Claim Rejections Under 35 U.S.C. § 102**

Claims 1, 2, 19, 26 and 53-55 have been rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Davis, *et. al.*, U.S. Pat. No. 6,441,137 (hereinafter “Davis”).

It is asserted on page 10 of the Official Action that

Davis et al. teach a therapeutic composition comprising a protein (TIE-1 ligand) that is 100% identical to the sequence set forth in SEQ ID NO:1.

Applicants respectfully disagree and request reconsideration.

Davis discloses a full length protein; SEQ ID NO:1 of the instant application discloses a 20 amino acid fragment of Ang-1 protein.

Claims 1 and 2 refer to fragments of Ang-1 consisting of SEQ ID NO:1. Davis does not disclose fragments of Ang-1 consisting of SEQ ID NO:1.

Claims 19 and 23 refer to mutant forms of Ang-1. Davis does not disclose mutant forms of Ang-1.

Claims 54 and 55 refer to fragments of Ang-1. Davis does not disclose fragments of Ang-1.

Davis does not disclose every limitation found in claims 1, 2, 19, 26, 54 and 55. Accordingly, Davis does not anticipate claims 1, 2, 19, 26, 54 and 55.

For the foregoing reasons, Applicants respectfully request that the rejection of claims 1, 2, 19, 26, 53 and 54 under 35 U.S.C. §102(b) as allegedly being anticipated by Davis be withdrawn.

### **Conclusion**

In view of the foregoing, Applicant submits that the claims are in condition for allowance. Applicant respectfully requests that claims 1, 2, 19, 26, 53 and 54 be allowed at this time.

An early indication of allowability and notice of allowance is earnestly solicited. Applicant invites the Examiner to contact the undersigned at 610-640-7855 to clarify any unresolved issues raised by this response.

As indicated on the transmittal accompanying this response, the Commissioner is hereby authorized to charge any debit or credit any overpayment to Deposit Account No. 50-0436.

Respectfully submitted,

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